

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-121—sSB 463

Judiciary Committee

**AN ACT CONCERNING THE APPOINTMENT OF A CONSERVATOR
FOR A PERSON WITH INTELLECTUAL DISABILITY**

SUMMARY: This act allows psychological evidence from a psychologist to be introduced in place of medical evidence from a physician at a probate court hearing or review on involuntary conservatorship for a person with intellectual disability.

The act also makes conforming changes.

EFFECTIVE DATE: October 1, 2014

**PSYCHOLOGISTS' EVIDENCE AT CONSERVATORSHIP HEARINGS AND
REVIEWS**

Hearing on Application for Conservatorship

By law, the probate court may appoint a (1) conservator of the estate for someone who cannot manage his or her affairs and (2) conservator of the person for someone incapable of caring for himself or herself.

For hearings on applications for involuntary conservatorship, prior law generally required evidence to be introduced from at least one state-licensed physician. Instead of this medical evidence, the act allows the introduction of psychological evidence from a state-licensed psychologist if the respondent (the subject of the hearing) is a person with intellectual disability.

Under the act, as under existing law regarding medical evidence from a physician, the:

1. psychologist must have examined the person within 45 days before the hearing;
2. evidence must contain specific information about the respondent's condition and its effect on the respondent's ability to care for himself or herself or manage his or her affairs;
3. psychological record must be confidential;
4. court must order the submitted psychological information to be disclosed to the respondent's attorney, and the respondent if he or she requests it; and
5. court may order the information disclosed to anyone else it deems necessary.

Existing law, unchanged by the act, allows the court to consider other relevant available evidence, including reports from psychologists.

By law, the court may waive the requirement for medical evidence if it is shown that the (1) evidence is impossible to obtain because of the respondent's

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absence or refusal to be examined or (2) alleged incapacity is not medical in nature.

Review of Conservatorship

By law, after a person is subject to involuntary conservatorship, the court must review the conservatorship after one year and at least every three years after that. As part of this process, prior law required a written report by a state-licensed physician who examined the respondent within the prior 45 days. The act allows a state-licensed psychologist to provide the report if the conserved person has intellectual disability.

Under existing law and the act, similar provisions apply as noted above regarding confidentiality and disclosure of the report, except the report must be provided to the conserved person.

By law, a conserved person may petition the court at any time to seek to terminate the conservatorship. The conserved person is not required to present medical evidence at such a hearing.

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